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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,418	06/06/2001	Jack C. Martin JR.	36968/254469 (BS00413)	7752

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EXAMINER

WONG, ERIC K

ART UNIT

PAPER NUMBER

2874

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/875,418

Applicant(s)

MARTIN ET AL.

Examiner

Eric Wong

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 14 is objected to because of the following informalities: The word "optical" in line 2 of claim 14, should be changed to --optic--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucent's Metropolis EON.
4. As to claims 1-4, 7-10, 13-16, 17-20 and 21, Lucent discloses an apparatus for multiple-channel passive wavelength division multiplexing (DWDM), the apparatus comprising:
 - A housing, wherein the housing is capable of being mounted in a front panel of a distribution frame in a switching office with input fiber optic cable with up to 64 defined wavelengths;
 - A transponder (laser) capable of supporting a wide range of bitrates;
 - Circuitry contained inside the housing, the circuitry capable of performing multiple-channel passive DWDM by receiving a plurality of inputs (one being a maintenance) and providing one output to a next central office, the circuitry further capable of providing a non-intrusive monitoring port, but fails to explicitly disclose;

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- A plurality of connectors, wherein each connector resides in one of the plurality of openings in the faceplate, each connector having two ends, one end being connected to an input of the circuitry and another end being capable of accepting input cable,
- Wherein each of the plurality of inputs is capable of accepting one optical signal of a defined wavelength.

One skilled in the art would recognize the need to make use of the DWDM circuitry disclosed by Lucent and provide connectors on its faceplate to support any-to-any optical connectivity from the front or rear.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the DWDM by Lucent to include a faceplate with a plurality of connections in order to support any-to-any optical connectivity.

As to claims 5 and 11, Lucent discloses the ability to have up to 64 wavelengths in a single node, but fails to explicitly disclose defined wavelengths selected from the groups of 1530.33nm, 1533.47nm, 1535.04nm, 1538.19nm, 1539.77nm, 1541.35nm, 1547.72nm, 1549.32nm, 1550.92nm, 1552.52nm, 1555.75nm, 1557.36nm and 1558.98nm.

One skilled in the art would be able to adjust the input and output of Lucent's EON to include the wavelengths in above groups in order to meet the industry standard wavelength range of 1500nm-1600nm for DWDM applications.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Lucent's EON to include wavelengths from various groups in order to enhance service capabilities while helping to avoid unnecessary downtime.

Conclusion

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. United States Patent Number 6,396,611 to Distefano et al. for a modular optical network unit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Wong whose telephone number is 703-305-4741. The examiner can normally be reached on Monday through Friday, 830AM - 430PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on 703-308-4819. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0725 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

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April 15, 2003



HEMANG SANGHAVI
PRIMARY EXAMINER